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ADAM K. SACHAROFF			PINHEIRO, JASON PAUL	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/825,055	REHKEMPER ET AL.
	Examiner Jason Pinheiro	Art Unit 3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 25 April 2007.  
 2a) This action is FINAL.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-16 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 25 April 2007 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

1. After the amendment filed on 04/25/2007, Claims 1, 3-4, 9, and 11-4 were amended. As a result claims 1-16 are pending.

### ***Information Disclosure Statement***

2. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Claim Objections***

3. Claim 9 is objected to because of the following informalities:

Regarding claim 9, Line 13: "a participant" should be changed to --the participant--

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morrison et al (US 4207087) in view of Landsinger et al (US 4346893).

Regarding claim 1: Morrison '087 does disclose a sequencing game (Col. 1, Lines 45-55); a housing (Col. 2, Lines 36-39); a microprocessor disposed within said housing (Col. 4, Lines 30-35) (Fig. 2); a plurality of manually operable controls affixed to said housing and in communication with said microprocessor, means for generating and sensorially rendering a sequence of events, wherein each event in the sequence of events is related to one manually operable control of the plurality of manually operable controls (Col. 2, Line 63 – Col 3 Line 6); each manually operable control of said plurality of manually operable controls is capable of being actuated externally from said housing by a participant as response to said sequence of events (Col. 2, Line 63 – Col 3 Line 6); and wherein said response by said participant is compared by the microprocessor to said sequence of events for determining a correctness of the response (Col. 2, Line 63 – Col. 3, Line 32); the microprocessor including means for comparing the participant's response to said sequence of events for determining the correctness of the participant's response (Col. 3, Lines 38-41). However Morrison does not disclose a mechanical means to move said housing while the sequence of events are being sensorially rendered, said mechanical means controllable by said microprocessor.

Landsinger '893 does disclose a mechanical means to move said housing  
(Col. 2, Lines 8-35)

Therefore it would have been obvious to one skilled in the art at the time the invention was made to integrate to teachings of Landsinger into the teachings of Morrison in order to further stimulate the player's interest in the game by providing the addition wheels to move the housing of Morrison's game during game play.

Regarding claim 2: Morrison discloses that which is discussed above. Morrison also does not disclose that the mechanical means to move said housing includes a motor mechanism and a plurality of wheels secured to a lower portion defined by said housing and at least one of said plurality of wheels being rotatably controlled by said motor mechanism.

Landsinger does disclose that the mechanical means to move said housing includes a motor mechanism (Col. 2, Lines 8-35) and a plurality of wheels (Figs. 5 & 6) secured to a lower portion defined by said housing and at least one of said plurality of wheels being rotatably controlled by said motor mechanism (Col. 2, Lines 8-35).

Therefore it would have been obvious to one skilled in the art at the time the invention was made to integrate to teachings of Landsinger into the teachings of Morrison in order to further stimulate the player's interest in the game by providing the addition of motor rotated wheels to the lower portion of the housing of Morrison's device to move the housing during game during game play.

Regarding claim 3: Morrison discloses that which is discussed above.

Morrison further discloses means for providing a first indication when said response corresponds to the sensorially rendered sequence of events which includes replaying the sequence of events and generating and redeling a new even after the sequence of events (Col. 3, Lines 6-9).

Regarding claim 4: Morrison discloses that which is discussed above.

Morrison further discloses means for providing a second indication when said participant's response does not correspond to the sensorially rendered sequence of events which includes generating and rendering a sensorially error event (Col. 3, Lines 9-11).

Regarding claim 5: Morrison discloses that which is discussed above.

Morrison further discloses generating a plurality of distinct visually perceptible light indications (Col. 2, Lines 63-67).

Regarding claim 6: Morrison discloses that which is discussed above.

Morrison further discloses generating a plurality of distinct aurally perceptible tones (Col. 2, Lines 63-65).

Regarding claim 7: Morrison discloses that which is discussed above.

Morrison further discloses a plurality of push buttons (Col. 2, Lines 36-39).

Regarding claim 8: Morrison discloses that which is discussed above.

Morrison also does not disclose that the mechanical means is controlled to move said housing while the participant is making a response.

Landsinger does disclose that the mechanical means is controlled to move said housing (Col. 2, Lines 8-35).

Therefore it would have been obvious to one skilled in the art at the time the invention was made to integrate the teachings of Landsinger into the teachings of Morrison in order to further stimulate the player's interest in the game by allowing the housing of Morrison to be moving, by way of Landsinger's teaching, while the participant is responding.

Regarding claim 9: Morrison '087 discloses a sequencing game having a housing unit (Col 2, Lines 36-39) (Fig. 9) and a microprocessor disposed within said housing (Col.4, Lines 30-35) (Fig. 2); a plurality of different colored push buttons affixed to said housing and in communication with said microprocessor (Col.4, Lines 30-35) (Fig. 1) (Although Morrison '087 does not disclose different colored push buttons, it is admitted in the application that Morrison's patent (US 4207087) corresponds to the known pattern matching game "Simon" that is manufactured by Milton Bradley, which is well known in the art to have multicolored push buttons), each push button of said plurality of push buttons is operable by a participant from outside said housing (Col. 2, Line 67 - Col. 3, Line 3) and includes a light emitting source affixed to the housing under said push button (Col. 2, Lines 42-47), each light emitting source is also controllable by said microprocessor to illuminate said push button (Col. 2, Lines 63-67); means for generating a sequence of events and rendering said sequence of events by operating said lights under said plurality of push buttons means within said

microprocessor for storing said sequence of events, wherein each event of the sequence of events corresponds to one of the push buttons, of the plurality of push buttons (Col. 4, Lines 29-53); and each push button when actuated externally from said housing by the participant generates a response to said sequence of events, wherein said response by said participant is compared by the microprocessor to said sequence of events for determining a correctness of the response (Col. 3, Lines 33-41). However Morrison does not disclose a motor controlled by said microprocessor to move said housing while said sequence of events are being rendered and during participant's response.

Landsinger '893 does disclose a motor to move said housing (Col. 2, Lines 8-35).

Therefore it would have been obvious to one skilled in the art at the time the invention was made to integrate the teachings of Landsinger into the teachings of Morrison in order to further stimulate the player's interest in the game by allowing the microprocessor to move the housing of Morrison, by way of Landsinger's teaching, while the participant is responding.

Regarding claim 10: Morrison discloses that which is discussed above. Morrison also does not disclose a plurality of wheels, at least two of said wheels being operable by the motor in opposite directions to each other, such that the housing rotates at a predetermined rate of rotation in a predetermined direction.

Landsinger does disclose a plurality of wheels (Figs. 5 & 6), at least two of said wheels being operable by the motor in opposite directions to each other,

such that the housing rotates at a predetermined rate of rotation in a predetermined direction (Col. 4, Line 35 – Col. 5, Line 50) (Figs. 7a & 7b).

Therefore it would have been obvious to one skilled in the art at the time the invention was made to integrate to teachings of Landsinger into the teachings of Morrison in order to further stimulate the player's interest in the game by allowing the housing of Morrison to move by way of Landsinger's teaching, at a predetermined speed and direction.

Regarding claim 11: Morrison discloses that which is discussed above. Morrison further discloses a means within said microprocessor for adding events in said sequence of events and rendering said sequence of events with the added events only when the response corresponds to the sequence of events last rendered by said microprocessor (Col. 3, Lines 3-10).

Regarding claim 12: Morrison discloses that which is discussed above. Morrison further discloses means within said microprocessor for generating an error signal when said response does not correspond to the sequence of events last rendered by said microprocessor (Col. 3, Lines 37-41).

Regarding claim 13: Morrison discloses that which is discussed above. Morrison further discloses a means within said microprocessor for generating an error signal when said response is not made within a predetermined time (Col. 3, Lines 50-55).

Regarding claim 14: Morrison discloses that which is discussed above. Morrison further discloses increasing the speed of the game as the game

progresses (Col. 1, Line 67 – Col. 2 Line 2). Morrison also does not disclose means within said microprocessor for increasing a rate of rotation of said housing when the response corresponds to the sequence of events lasted rendered by said microprocessor.

Landsinger does disclose means for increasing a rate of rotation of said housing (Col. 8, Lines 21-53).

Therefore it would have been obvious to one skilled in the art at the time the invention was made to integrate to teachings of Landsinger into the teachings of Morrison in order to further stimulate the player's interest in the game by allowing the housing of Morrison to increase in speed of rotation, by way of Landsinger's teaching, as the game progresses, which is as the player's response corresponds to the sequence previously rendered by the game device as disclosed by Morrison.

Regarding claim 15: Morrison discloses that which is discussed above. Morrison also does not disclose a means within said microprocessor for changing the predetermined direction of the rotating of the housing.

Landsinger does disclose a means for changing the predetermined direction of the rotating of the housing (Col. 5, Lines 23-50).

Therefore it would have been obvious to one skilled in the art at the time the invention was made to integrate to teachings of Landsinger into the teachings of Morrison in order to further stimulate the player's interest in the game by allowing the microprocessor to move Morrison's housing to move in a direction

different than that of the predetermined direction, as disclosed in Landsinger's teaching.

Regarding claim 16: Morrison discloses that which is discussed above. Morrison further discloses a speaker affixed to the housing and controlled by the microprocessor such that the microprocessor emits a plurality of distinct aurally perceptible tones, each tone of said plurality of distinct aurally perceptible tones corresponds to a push button (Col. 1, Lines 46-55).

### ***Response to Arguments***

6. Applicant's arguments, see pages 9-10, filed 04/25/2007, with respect to the rejection(s) of claim(s) 1-16 under *35 USC § 102(b)* and *35 USC § 103(a)* have been fully considered and are persuasive. Therefore, the rejections have been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of the newly found prior art reference as noted in the rejections above.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Pinheiro whose telephone number is 571-270-1350. The examiner can normally be reached on M - F 8:00 AM - 4 PM;.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JP  
07/06/2007



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